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UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of)
)
Andrew E. Pietkiewicz)
also know as Andrzej Pietkiewicz)
)
with addresses at:)
)
Nowoursynowski 13 1 A)
Warsaw, Poland 02797,)
)
and)
)
20 Bathrick Road)
Westminister, Massachusetts 0 1473,)
)
Respondent)

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having notified Andrew Pietkiewicz, also known as Andrzej Pietkiewicz (hereinafter Pietlciewicz), of its intention to initiate an administrative proceeding against him pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 2000)) (the "Act"),' and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1999)) (the "Regulations"),² based on

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)), and August 10, 1999 (3 C.F.R., 1999 Comp. 302 (2000)), continued the Regulations in effect under the International Emergency Economic Powers Act (currently codified at 50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 2000)).

² The violation at issue occurred in 1997. The Regulations governing the violation at issue are found in the 1997 version of the Code of Federal Regulations (15 C.F.R. 730-774 (1997)).

allegations that on or about December 1, 1997, Pietkiewicz violated the terms of an Order issued under the Act and Regulations by failing to pay in full the civil penalty imposed against him under that Order, in violation of Section 764.2(a) of the Regulations; and,

BXA and Pietkiewicz having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$11,000 is assessed against Pietkiewicz, which shall be paid to the U.S. Department of Commerce within thirty days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Mr. Pietkiewicz will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that, for a period of ten years from the date of this Order, Pietkiewicz, and all of his successors or assigns, officers, representatives, agents, and employees, may not participate, directly or indirectly, in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as "item") exported or to be exported from the

Those Regulations are substantially the same as the 1999 version.

United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
- C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

FOURTH, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
- E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

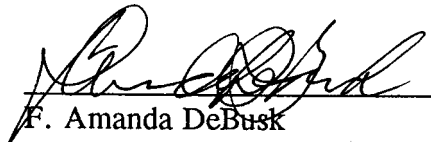
FIFTH, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

SIXTH, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

SEVENTH, that, as authorized by Section 766.18(c) of the Regulations, the denial period set forth above shall be suspended in its entirety for ten years from the date of entry of this Order, and shall thereafter be waived, provided that, during the period of suspension, Pietkiewicz 1) pays \$18,500, the amount still due under the November 4, 1993 Decision and Order, to the U.S. Department of Commerce within one year of the entry of this Order, and 2) has committed no violation of the Act or any regulation, order or license issued thereunder during the period of suspension.

EIGHTH, that the proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order is effective immediately.


F. Amanda DeBusk
Assistant Secretary
for Export Enforcement

Entered this 21st day of Sept., 2000.

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of)
)
Andrew E. Pietkiewicz)
also know as Andrzej Pietkiewicz)
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with addresses at:)
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Nowoursynowski 13 1 A)
Warsaw, Poland 02797,)
)
and)
)
20 Bathrick Road)
Westminster, Massachusetts 01473,)
)
Respondent)

SETTLEMENT AGREEMENT

This Agreement is made by and between the Andrew Pietkiewicz, also known as Andrzej Pietkiewicz (hereinafter Pietkiewicz), and the Bureau of Export Administration, United States Department of Commerce, pursuant to Section 766.18(a) of the Export Administration Regulations (15 C.F.R. Parts 730-774 (1999)) (the Regulations),’ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 2000)) (the Act).*

¹ The violation at issue occurred in 1997. The Regulations governing the violation at issue are found in the 1997 version of the Code of Federal Regulations (15 C.F.R. 730-774 (1997)). Those Regulations are substantially the same as the 1999 version.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997

WHEREAS, the Office of Export Enforcement, Bureau of Export Administration (BXA), has notified Pietkiewicz of its intention to initiate an administrative proceeding against him pursuant to the Act and the Regulations, based on allegations that Pietkiewicz violated the terms of an Order issued under the Act and Regulations by failing to pay in full the civil penalty imposed against him under that Order, in violation of Section 764.2(a) of the Regulations;

WHEREAS, Pietkiewicz has reviewed the proposed Charging Letter and is aware of the allegations made against him and the administrative sanctions that could be imposed against him if the allegations are found to be true; he fully understands the terms of this Settlement Agreement and the appropriate Order; he enters into this Settlement Agreement voluntarily and with full knowledge of his rights, and he states that no promises or representations have been made to him other than the agreements and considerations herein expressed;

WHEREAS, Pietkiewicz neither admits nor denies the allegations contained in the proposed Charging Letter;

WHEREAS, Pietkiewicz wishes to settle and dispose of all matters alleged in the proposed Charging Letter by entering into this Settlement Agreement; and

WHEREAS, Pietkiewicz agrees to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (appropriate Order);

Comp. 306 (1998)), August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)), and August 10, 1999 (3 C.F.R., 1999 Comp. 302 (2000)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 2000)).

NOW THEREFORE, Pietkiewicz and BXA agree as follows:

1. BXA has jurisdiction over Pietkiewicz, under the Act and the Regulations, in connection with the matter alleged in the proposed Charging Letter.

2. BXA and Pietkiewicz agree that the following sanctions shall be imposed against Pietkiewicz in complete settlement of the alleged violation of the Act and the Regulations set forth in the proposed Charging Letter;

- a. Pietkiewicz shall be assessed a civil penalty in the amount of \$11,000, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the appropriate Order.
- b. Pietkiewicz and all of his successors and assigns, officers, representatives, agents, and employees may not, for a period of ten years from the entry of the appropriate Order, participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology (hereinafter "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:
 1. Applying for, obtaining, or using any license, License Exception or export control document;
 2. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any

item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

3. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations;

- c. BXA agrees that, as authorized by Section 766.18 of the Regulations, the ten year denial period set forth in paragraph 2b. shall be suspended for a period of ten years from the entry of the appropriate Order in this matter, and shall thereafter be waived, provided that during the period of suspension, Pietkiewicz: 1) pays \$18,500, the amount still due under the November 4, 1993 Decision and Order issued by the Department, within one year of the entry of the appropriate Order in this case; and 2) has committed no violation of the Act or any regulation, order or license issued thereunder during the period of suspension.

3. Pietkiewicz agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, he hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Settlement Agreement or the appropriate Order, when entered), including, without limitation, any right: (a) to an administrative hearing regarding the allegations in the proposed Charging Letter; (b) to request a refund of any civil penalty paid pursuant to this Settlement Agreement and the appropriate Order, when entered; and

(c) to seek judicial review or otherwise to contest the validity of this Settlement Agreement or the appropriate Order, when entered.

4. BXA agrees that, upon entry of an appropriate Order, it will not initiate any administrative proceeding against Pietkiewicz in connection with any violation of the Act or the Regulations arising out the matter identified in the proposed Charging Letter.

5. Pietkiewicz understands that BXA will make the proposed Charging Letter, this Settlement Agreement, and the appropriate Order, when entered, available to the public.

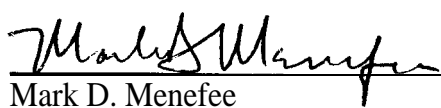
6. BXA and Pietkiewicz agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an appropriate Order is not issued by the Assistant Secretary for Export Enforcement pursuant to Section 766.18(a) of the Regulations, BXA and Pietkiewicz agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that the parties shall not be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the appropriate Order, when entered, nor shall this Settlement Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

8. This Settlement Agreement shall become binding on BXA only when the Assistant Secretary for Export Enforcement approves it by entering an appropriate Order, which will have

the same force and effect as a decision and order issued after a full administrative hearing on the record.

BUREAU OF EXPORT ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE



Mark D. Menefee
Director
Office of Export Enforcement

ANDREW PIETKIEWICZ
also known as ~~Andrzej~~ Pietkiewicz
~~ANDRZEJ~~ @



Andrew Pietkiewicz

Date: 6/26/00

Date: JUNE 26th/2000



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Export Administration
Washington DC 20230

CERTIFIED AND REGISTERED MAIL - RETURN RECEIPTS REQUESTED

Mr. Andrew Pietkiewict
also known as Andrzej Pietkiewicz
Nowoursynowski 13 1 A
Warsaw, Poland 02797

and

20 Bathrick Road
Westminster, Massachusetts 0 1473

Dear Mr. Pietkiewicz:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described in detail below, Andrew Pietkiewicz, also known as Andrzej Pietkiewicz (hereinafter Mr. Pietkiewicz), has violated the Export Administration Regulations (currently codified at IS C.F.R. Parts 730-774 (1999)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 2000)) [the Act]²

Facts constituting a violation:

Charge 1

On or about February 26, 1990, an administrative proceeding was initiated against Mr. Pietkiewicz alleging that he violated the 1985 and 1986 versions of the Regulations by exporting U.S.-origin commodities, *to wit*, computers and accessories, from the United States to various countries without obtaining the required validated export licenses from the Department of Commerce. On August 17, 1990, then-Under Secretary for Export Administration Dennis Kloske

¹ The violation at issue occurred in 1997. The Regulations governing the violation at issue are codified at 15 C.F.R. 730-774 (1997). Those Regulations are substantially the same as the 1999 version.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)) and August 10, 1999 (3 C.F.R., 1999 Comp. 302 (2000)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 US CA. §§ 1701-1706 (1991 & Supp. 2000)).



entered an Order against Mr. **Pietkiewicz**³ imposing a \$25,000 civil penalty to settle the allegations that Mr. Pietkiewicz had violated the Regulations (1990 Order). The 1990 Order provided that **Mr.** Pietkiewicz was to pay the civil penalty in installments of \$5,000 each, **with** the last payment due *no* later than March 31, 1991. **Mr.** Pietkiewicz failed to pay any portion of the \$25,000 civil penalty due under the 1990 Order.

On June 19, 1992, BXA issued a charging **letter** alleging that Mr. Pietkiewicz violated the terms of **an** order issued under the Act and Regulations by failing to pay the **civil** penalty imposed under the 1990 **Order**.⁴ On November 4, 1993, **then-Acting** Under Secretary for Export Administration **Barry Carter** entered a Decision and Order in the case (hereinafter 1993 **Order**). The 1993 Order modified the payment terms of the 1990 Order to provide that Mr. **Pietkiewicz** shall pay the **\$25,000** civil **penalty** in monthly installments of **\$500** each., due on the first of every month, beginning on **November 1, 1993** and continuing **for** the following 49 months. The 1993 Order also imposed a **five** year denial of Mr. **Pietkiewicz's** export privileges, with the denial period being suspended in its entirety **upon** the conditions that Mr. Pietkiewicz made timely payment of the **\$25,000 civil** penalty and that he not commit any violations of the Act or any **regulation**, order, or license issued thereunder during the period of suspension.

Mr. Pietkiewicz has not complied with the terms of the 1993 Order as he has only paid **\$6,500** of the **\$25,000** civil penalty due under that Order. BXA alleges that, by failing to pay in **full** the civil penalty due under the 1993 Order, Mr. Pietkiewicz has violated the terms of **an Order** issued under the Act and Regulations, and, therefore, committed one violation of Section **764.2(a)** of the Regulations.

Accordingly, **Mr.** Pietkiewicz is hereby notified that an administrative proceeding is instituted against him pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following;

The maximum civil penalty allowed by law of \$11,000 per violation (see Section **764.3(a)(1)** of the Regulations and **15 C.F.R. § 6.4(a)(3)** (2000)).

Denial of export privileges (see Section **764.3(a)(2)** of the Regulations); and/or

Exclusion **from** practice before **BXA** (see Section 764.3(a)(3) of the Regulations).

³ **See. In the Matter of Andrew Pietkiewicz, individually, and doing business as American Advanced Technologies, International Advanced Technologies, and Aero Space Technologies, Inc.**, docket number **0105-01** through **01 05-04**. Mr. Pietkiewicz has since **informed** Commerce that all his former businesses have been dissolved.

⁴ **See, In the Matter of Andrew Pietkiewicz**, docket number **2116-01**.

Andrew Pietkiewict
Charging Letter
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Copies of relevant Parts of the Regulations are enclosed.

If Mr. **Pietkiewicz** fails to answer the charges contained in this letter within 30 days after being served **with** notice of issuance of this letter as provided in Section **766.6** of the Regulations, that failure **will** be treated as a default under Section **766.7** of the Regulations.

Mr. Pietkiewicz is further notified **that** he is entitled to an agency hearing on the record as provided by Section 13(c) of the Act and Section **766.6** of the Regulations, if a written demand for one is filed with his answer. to be represented by counsel. and to seek a consent settlement

Pursuant to an Interagency Agreement between **BXA** and the U.S. Coast Guard. the U.S. Coast **Guard** is providing administrative **law** judge services, to the extent that such services are required under **the** Regulations, in connection **with** the matters set forth in this letter.- Accordingly, Mr. **Pietkiewicz's** answer should be filed **with** the U.S. Coast Guard ALJ Docketing Center, 40 **S.** Gay Street, Baltimore, Maryland 2 1202-4022, in accordance with **the instructions in Section 766.5(a)** of the Regulations. **In** addition. a copy of Mr. **Pietkiewicz's** answer should be **served** on BXA at the address set forth in Section 766.5(b), adding "**ATTENTION: Melissa B. Mannino, Esq.**" **below** the address. Ms. Mannino may be contacted by telephone at (202) **482-5304**

Sincerely.

Mark D. Menefee
Director
Office of Export Enforcement

Enclosure